

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

DEREK MORTLAND,)	CASE NO. 1:22-cv-00366-HAB-SLS
)	
Plaintiff,)	JUDGE HOLLY A. BRADY
)	
v.)	MAGISTRATE JUDGE SUSAN L.
)	COLLINS
RADHE HOSPITALITY LLC,)	
)	
Defendant.)	
)	

ORDER GRANTING PERMANENT INJUNCTIVE RELIEF

This Order resolves Derek Mortland’s (“Plaintiff”) claims against Radhe Hospitality LLC (“Defendant”) for permanent injunctive relief pursuant to the Americans with Disability Act of 1990, Title III, 42 U.S.C. 12181, *et seq.* (“ADA”).

The Court being fully advised in the premises, it is hereby **ORDERED AND ADJUDGED** as follows:

1. Defendant is the owner and operator of the property known as the Comfort Suites hotel and is located at 1137 W. 15th Street, Auburn, IN 46706 (the “Property”).
2. Plaintiff claims that there are certain architectural barriers existing at Defendant's property which constitute violations of the ADA’s 1991 and/or 2010 Standards and unlawfully limit Plaintiff’s use of the property.
3. Defendant has failed to file an answer or other responsive pleading in this matter; Plaintiff’s Motion for Default Judgment (Doc# 6) is hereby granted.
4. The Court finds that Defendant is in violation of Title III of the ADA by denying Plaintiff, equal accommodation to its place of public accommodation;

5. Defendant is hereby ORDERED to become compliant with Title III of the ADA as follows:

- a. All alterations, modifications and policies required by this Order shall be completed, if not already done so, within 120 days of this Order.
- b. The alterations, modifications and policies described in this Order shall be implemented according to the standards set out in the 2010 Americans with Disabilities Act Accessibility Guidelines ("2010 ADAAG").
- c. Defendant is Ordered to remediate the following barriers to access as follows:

i. **PARKING**

1. In compliance with 2010 ADAS Section 208.2, at the parking lot, install one additional accessible parking stall (Ref. ECF# 6-6, Finding 1).
2. In compliance with 2010 ADAS Section 208.3.1 and Section 502.3, at the parking lot, install access aisles that are located on an accessible route of travel to the accessible building entrance (Ref. ECF# 6-6 Finding 2).
3. In compliance with 2010 ADAS Section 303.3 and 303.2, at the parking lot, correct the walkway so that it does not contain abrupt vertical edges and/or variations over a 1/2 inch. (Ref. ECF# 6-6 Finding 3).
4. In compliance with 2010 ADAS Section 406.2, at the parking lot, correct the transition from the curb ramp to the walkway so that it is flush and free of abrupt changes in level. (Ref. ECF# 6-6

Finding 4).

5. In compliance with 2010 Section 406.3, at the parking lot, correct the curb ramp side flares so that they do not exceed maximum slope allowances. (Ref. ECF# 6-6 Finding 5)

ii. **ENTRANCE / LOBBY**

1. In compliance with 2010 ADAS Section 302.2, at the entrance to the lobby, secure the floor mats at the lobby doors. (Ref. ECF# 6-6 Finding 6).
2. In compliance with 2010 ADAS Section 308.3.1, at the lobby, lower the hand sanitizer so that it is within the maximum allowable reach range for a side approach. (Ref. ECF# 6-6 Finding 7).

iii. **GUEST ROOM 108**

1. In compliance with 2010 ADAS Section 608.7, lower the threshold for the shower in guestroom 108 so that it does not exceed the maximum height requirement. (Ref. ECF# 6-6 Finding 8).
2. In compliance with 2010 ADAS Section 6010.3, remove the portable seat in the roll-in type shower of guestroom 108 and replace it with a permanent seat. (Ref. ECF# 6-6 Finding 9).
3. In compliance with 2010 ADAS Section 610.3, install a permanent seat in the roll-in type shower of guestroom 108. (Ref. ECF# 6-6 Finding 10).
4. In compliance with 2010 ADAS Section 608.5.2, correct the operable parts of the roll-in type shower of guestroom 108 so they

are located on the back wall adjacent to the seat, a maximum of 27 inches from the seat wall. (Ref. ECF# 6-6 Finding 11).

5. In compliance with 2010 ADAS Section 608.6, lower the handheld sprayer unit of the roll-in type shower of guestroom 108 to the required maximum height. (Ref. ECF# 6-6 Finding 12).
6. In compliance with 2010 ADAS Section 608.6, replace the handheld sprayer unit of the roll-in type shower of guestroom 108 with a non-positive on/off control. (Ref. ECF# 6-6 Section 13).
7. In compliance with 2010 ADAS Section 608.3.2, at the roll-in type shower of guestroom 108, install a compliant grab bar opposite the shower seat. (Ref. ECF# 6-6 Finding 14).
8. In compliance with 2010 ADAS Section 608.3.2, at the roll-in type shower of guestroom 108, remove the grab bar which is located directly above the seat. (Ref. ECF# 6-6 Finding 15).
9. In compliance with 2010 ADAS Section 606.5, within guestroom 108's bathroom, insulate the water and drainpipes under the lavatory. (Ref. ECF# 6-6 Finding 16).
10. In compliance with 2010 ADAS Section 603.3, within guestroom 108's bathroom, mount the mirror at the appropriate height. (Ref. ECF# Section 6-6 Finding 17).
11. In compliance with 2010 ADAS Section 604.6, within guestroom 108's bathroom, mount the flush handle on the open side of the toilet. (Ref. ECF# 6-6 Finding 18).

12. In compliance with 2010 ADAS Section 609.3, within guestroom 108's bathroom, reposition the towel rack so that it does not obstruct the rear grab bar. (Ref. ECF# 6-6 Finding 19).
13. In Compliance with 2010 ADAS Section 604.5.2, within guestroom 108's bathroom, replace the rear grab bar so that it is a minimum 36 inches in length. (Ref. ECF# 6-6 Finding 20).
14. In compliance with 2010 ADAS Section 604.5.2, within guestroom 108's bathroom, extend the rear grab bar adequately past the toilet on the wide side. (Ref. ECF# 6-6 Finding 21).
15. In Compliance with 2010 ADAS Section 604.5.1, within guestroom 108's bathroom, locate the side grab bar 12 inches maximum from the rear wall. (Ref. ECF# 6-6 Finding 22).
16. In compliance with 2010 ADAS Section 604.2, within guestroom 108's bathroom, locate the toilet within the range allowed from the side wall or partition. (Ref. ECF# 6-6 Finding 23).
17. In compliance with 2010 ADAS Section 604.3.2, within guestroom 108's bathroom, assure that there is clear floor space for the toilet. (Ref. ECF# 6-6 Finding 24).
18. In compliance with 2010 ADAS Section 305.3, reposition the trash can to allow for adequate clear floor space for an approach to the trashcan. (Ref. ECF# 6-6 Finding 25).
19. In compliance with 2010 ADAS Section 305.3, within guestroom 108's bathroom, reposition the tissue dispenser to allow for

adequate clear floor space for an approach to the tissue dispenser.

(Ref. ECF# 6-6 Finding 26).

20. In compliance with 2010 ADAS section 216.3, enlarge the sign providing directional and information in guestroom 108. (Ref. ECF# 6-6 Finding 27).

21. In compliance with 2010 ADAS Sections 308.2.1 and 308.3.1, within guestroom 108, lower the shelf or storage facility for either a side or front approach. (Ref. ECF# 6-6 Finding 28).

22. In compliance with 2010 ADAS Section 308.2.1 and 308.3.1, within guestroom 108, re-position the closet rod for either a side or front approach. (Ref. ECF# 6-6 Finding 29).

23. In compliance with 2010 ADAS Section 308.2.2, within guestroom 108, reposition the lamp to allow for a forward approach and proper reach range. (Ref. ECF# 6-6 Finding 30).

24. In compliance with 2010 ADAS Section 305.3, within guestroom 108, ensure that there is adequate clear floor space for an approach to the lamp. (Ref. ECF# 6-6 Finding 31).

25. In compliance with 2010 ADAS Section 403.5.1, within guestroom 108, ensure that the route of travel between the furnishings does not exceed a minimum width of 36 inches. (Ref. ECF# 6-6 Finding 32).

26. In compliance with 2010 ADAS Section 403.5.1, within guestroom 108, ensure that the route of travel at the foot of the bed provides a

a minimum width of 36 inches. (Ref. ECF# 6-6 Finding 33).

27. In compliance with 2010 ADAS Section 403.5.1, within guestroom

108, ensure that the route of travel at the foot of the bed provides a minimum width of 36 inches. (Ref. ECF# 6-6 Finding 34).

28. In compliance with 2010 ADAS Section 403.5.1, within guestroom

108, provide a route of travel to the climate control within a minimum width of 36 inches. (Ref. ECF# 6-6 Finding 35).

29. In compliance with 2010 ADAS Section 305.3, within guestroom

108, ensure that there is the required clear floor space to the climate controls. (Ref. ECF# 6-6 Finding 36).

30. In compliance with 2010 ADAS Section 308.3.1, within guestroom

108, ensure that the drape wands are at or below the maximum allowable reach range for a side approach. (Ref. ECF# 6-6 Finding 37).

31. In compliance with 2010 ADAS Section 309.4, within guestroom

108, install drape wands that are accessible and that do not require tight grasping, pinching or twisting of the wrist. (Ref. ECF# 6-6 Finding 38).

32. In compliance with 2010 ADAS Section 308.3.1, within guestroom

108, move the outlet so that it is within the minimum allowable reach range for a side approach. (Ref. ECF# 6-6 Finding 39).

iv. **EXTERIOR**

1. In compliance with 2010 ADAS Section 226.1, position the picnic

table seating area on an accessible route. (Ref. ECF# 6-6 Finding 40).

2. In compliance with 2010 ADAS Section 226.1, install an accessible dining surface at the picnic table. (Ref. ECF# 6-6 Finding 41).
3. In compliance with 2010 ADAS Section 306.2.1, ensure that compliant knee and/or toe clearance exists at the picnic table. (Ref. ECF# 6-6 Finding 42).
4. In compliance with 2010 ADAS Section 206.2.1, ensure that the west side entrance is located on an accessible route. (Ref. ECF# 6-6 Finding 43).
5. In compliance with 2010 ADAS Section 206.2.1, ensure that the north side entrance door is located on an accessible route. (Ref. ECF# 6-6 Finding 44).
6. In compliance with 2010 ADAS Section 303.3 and 303.2, at the walkway at the north side door, ensure that there are no abrupt vertical edges and/or variations over 1/4 inch. (Ref. ECF# 6-6 Finding 45).
7. In compliance with 2010 ADAS Section 206.2.1, ensure that the east side building entrance door is located on an accessible route. (Ref. ECF# 6-6 Finding 46).
8. In compliance with 2010 ADAS Section 206.2.2, ensure that there is an accessible route to the back patio from the parking lot or

public way. (Ref. ECF# 6-6 Finding 47).

9. In compliance with 2010 ADAS Section 226.1, install an accessible dining surface at the back patio. (Ref. ECF# 6-6 Finding 48).
10. In Compliance with 2010 ADAS Section 306.2.1, ensure that compliant knee and/or toe clearance is provided at the back patio tables. (Ref. ECF# 6-6 Finding 49).

v. **POOL AREA**

1. In compliance with 2010 ADAS Section 226.1, ensure that there is an accessible dining surface in the pool area. (Ref. ECF# 6-6 Finding 50).
2. In compliance with 2010 ADAS Section 306.2.1, ensure that compliant knee and/or toe clearance is provided at the pool area tables. (Ref. ECF# 6-6 Finding 51).
3. In Compliance with 2010 ADAS Section 242.2, permanently remove the lift protective cover while the pool is open to the public. (Ref. ECF# 6-6 Finding 52).

vi. **PUBLIC UNISEX RESTROOM**

1. In compliance with 2010 ADAS Section 604.6, replace the toilet so that the flush handle is located on the wide side of the toilet. (Ref. ECF# 6-6 Finding 53).
2. In compliance with 2010 ADAS Sections 604.5.2, install a rear grab bar that is a minimum 36 inches in length. Ref. ECF# 6-6

Finding 54).

3. In compliance with 2010 ADAS Section 604.5.2, reposition the rear grab bar so that it extends adequately past the toilet on the wide side. (Ref. ECF# 6-6 Finding 55).
4. In Compliance with 2010 ADAS Section 604.3.2, reposition the lavatory so that it does not project into the clear floor space required for the toilet. (Ref. ECF# 6-6 Finding 56).
5. In Compliance with 2010 ADAS Section 305.3, move the trash can so there is an adequate clear floor space for an approach to the trash can. (Ref. ECF# 6-6 Finding 57).
6. In compliance with 2010 ADAS Section 604.7, reposition the toilet paper so that it is installed within the compliant range. (Ref. ECF# 6-6 Finding 58).
7. In compliance with 2010 ADAS Section 604.5.1, reposition the side grab bar so that it is located no greater than 12 inches from the rear wall. (Ref. ECF# 6-6 Finding 59).
8. In compliance with 2010 ADAS Section 604.5.1, replace the side grab bar so that it is long enough. (Ref. ECF# 6-6 Finding 60).
9. In compliance with 2010 ADAS Section 604.5.1, reposition the side grab bar so that it extends far enough from the rear wall. (Ref. ECF# 6-6 Finding 61).
10. In Compliance with 2010 ADAS Section 606.5, adequately insulate the water and drainpipes under the lavatory. (Ref. ECF# 6-

6 Finding 62).

11. In compliance with 2010 ADAS Section 603.3, lower the mirror to the appropriate height. (Ref. ECF# 6-6 Finding 63)
12. In compliance with 2010 ADAS Section 308.2.1, reposition the coat hook so that it is installed no greater than 48 inches above the finished floor. (Ref. ECF# 6-6 Finding 64).
13. In compliance with 2010 ADAS Section 308.2.1, ensure that the paper towel dispenser's operation mechanism no greater than 48 inches above the finished floor. (Ref. ECF# 6-6 Finding 65)
14. In compliance with 2010 ADAS Section 404.2.4.1, reposition the trash can so the maneuvering clearance at the door is not obstructed. (Ref. ECF# 6-6 Finding 66).

vii. **BREAKFAST AREA**

1. In compliance with 2010 ADAS Section 226.1, install an accessible dining surface in the breakfast area. (Ref. ECF# 6-6 Finding 67).
2. In compliance with 2010 ADAS Section 306.2.1, ensure compliant knee and/or toe clearance is provided at the breakfast area accessible table to be installed. (Ref. ECF# 6-6 Finding 68).

viii. **BUSINESS AREA**

1. In compliance with 2010 ADAS Section 306.3.3, ensure compliant knee clearance at the business station. (Ref. ECF# 6-6 Finding 69).

ix. **FITNESS AREA**

1. In compliance with 2010 ADAS Section 403.5.1, provide a minimum width of 36 inches route of travel through the equipment and to the drinking fountain. (Ref. ECF# 6-6 Finding 70).
2. In compliance with 2010 ADAS Section 404.2.4.1, ensure that the maneuvering clearance at the door is not obstructed. (Ref. ECF# 6-6 Finding 71).

x. **LAUNDRY AREA**

1. In compliance with 2010 ADAS Section 403.5.1, ensure a minimum width of 36 inches along the route of travel through the equipment and to the laundry machine. (Ref ECF# 6-6 Finding 72).
2. In compliance with 2010 ADAS Section 305.3, ensure adequate clear floor space at the laundry machine for an approach. (Ref. ECF# 6-6 Finding 73).

xi. For all other conditions at the Property which violate the applicable 1991 or 2010 ADAAG, Defendant shall make modifications to bring that condition into compliance with the 2010 ADAAG. Modifications must only be made to barriers to access which affect a mobility-impaired individual.

- d. Upon completion of the remediations as outlined above, Defendant shall file a Notice with the Clerk of Courts indicating that it has fully remedied the non-compliance with the ADA.

6. It is further ordered that Plaintiff's application for an award of attorney fees, expert fees, and court costs is hereby granted in the amount of \$6,212.08, itemized in the following amounts:

- a. Attorney Fees: \$4,571.68, *plus any additional time required to enforce the relief ordered by the Court;*
- b. Expert Fees: \$1,160.00, *plus any additional time required to enforce the relief ordered by the Court;* and
- c. Court Costs and Litigation Expenses: \$480.40.

7. This Court retains jurisdiction to effectuate the contents of this Order.

8. The Clerk is directed to send a copy of this Order to Defendant, care of Mihir Patel, Registered Agent, at 5005 Lincolnway E, Suite A, Mishawaka, IN 46544.

DONE AND ORDERED in Chambers, on this 20th day of June, 2023.

s/Holly A. Brady
JUDGE HOLLY A. BRADY
UNITED STATES DISTRICT COURT

APPROVED:

/s/ Colin G. Meeker
COLIN G. MEEKER (#0092980)